

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 98-3599

United States of America,

Appellee,

v.

Joseph Doyle Lingo,

Appellant.

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* Appeal from the United States

* District Court for the

* Western District of Arkansas.

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* [UNPUBLISHED]

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Submitted: February 5, 1999

Filed: February 23, 1999

Before FAGG, HANSEN, and MORRIS SHEPPARD ARNOLD, Circuit Judges.

PER CURIAM.

Joseph Doyle Lingo pleaded guilty to possessing methamphetamine with intent to distribute, in violation of 21 U.S.C. § 841(a)(1). At sentencing, Lingo argued that the district court¹ should depart downward from the applicable Guidelines imprisonment range, because his Category II criminal history overstated the seriousness of his past criminal conduct. See U.S. Sentencing Guidelines Manual § 4A1.3, p.s. (1998). The court denied Lingo's request, and sentenced him to 33 months imprisonment and three years supervised release. After reviewing the district

¹The Honorable Harry F. Barnes, United States District Judge for the Western District of Arkansas.

court's comments as a whole, see United States v. Knight, 96 F.3d 307, 311 (8th Cir. 1996), cert. denied, 117 S. Ct. 1458 (1997), we conclude that the district court was aware of its authority to depart downward, and made a discretionary decision not to do so—a decision we do not review. See United States v. Hall, 7 F.3d 1394, 1396 (8th Cir. 1993).

Accordingly, we affirm.

A true copy.

Attest:

CLERK, U.S. COURT OF APPEALS, EIGHTH CIRCUIT.